

CHAPTER 143

GOVERNMENT - LOCAL

SENATE BILL 19-106

BY SENATOR(S) Cooke and Zenzinger, Crowder, Ginal, Marble, Sonnenberg, Todd;
also REPRESENTATIVE(S) Tipper and Larson, Bird, Buckner, Buentello, Caraveo, Catlin, Cutter, Exum, Gray, Hooton,
Kennedy, Kipp, McLachlan, Michaelson Jenet, Mullica, Snyder, Titone, Jackson.

AN ACT

CONCERNING AN ADDITIONAL PROCESS BY WHICH A BOARD OF COUNTY COMMISSIONERS MAY INITIATE THE WITHDRAWAL OF CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM A DEFINED CONTRIBUTION RETIREMENT PLAN OFFERED BY ONE OR MORE LOCAL GOVERNMENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-54-101, **amend** (2.7) introductory portion; and **add** (2.7)(a.5) and (2.7)(d.5) as follows:

24-54-101. Authorization to establish and maintain retirement plan or system - definitions. (2.7) For purposes of this ~~article~~ ARTICLE 54, unless the context otherwise requires:

(a.5) "CURRENT EMPLOYEE" MEANS ANY PERSON CURRENTLY PERFORMING SERVICE THAT CONSTITUTES EMPLOYMENT FOR ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE. "CURRENT EMPLOYEE" DOES NOT INCLUDE FORMER EMPLOYEES OF ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE WHO LEFT EMPLOYMENT THROUGH RETIREMENT, RESIGNATION, SEPARATION, TERMINATION, OR OTHERWISE. "CURRENT EMPLOYEE" ALSO DOES NOT INCLUDE BENEFICIARIES OF EITHER CURRENT EMPLOYEES OR FORMER EMPLOYEES.

(d.5) "PEACE OFFICER" MEANS A CERTIFIED PEACE OFFICER AS DESCRIBED IN SECTION 16-2.5-101 AND INCLUDES ANY GUARDS EMPLOYED BY A COUNTY SHERIFF PURSUANT TO SECTION 17-26-122.

SECTION 2. In Colorado Revised Statutes, 24-54-106, **add** (3) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

24-54-106. Association shall be formed - withdrawal.

(3) (a) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, ONCE EVERY FOUR YEARS A BOARD OF COUNTY COMMISSIONERS MAY INITIATE THE WITHDRAWAL OF CURRENT EMPLOYEES WHO ARE PEACE OFFICERS IN THE COUNTY FROM ITS PARTICIPATION IN AND CONTRIBUTIONS TO A DEFINED CONTRIBUTION PLAN OFFERED BY AN ASSOCIATION FORMED PURSUANT TO THIS ARTICLE 54 FOR THE PURPOSE OF JOINING A RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION CREATED IN ARTICLE 31 OF TITLE 31. THE BOARD OF COUNTY COMMISSIONERS, AFTER AN ASSOCIATION HAS BEEN PROVIDED AN OPPORTUNITY TO PRESENT INFORMATION TO THE BOARD OF COUNTY COMMISSIONERS REGARDING THE ADVANTAGES OR DISADVANTAGES OF WITHDRAWAL FROM AN ASSOCIATION, MAY INITIATE THE WITHDRAWAL BY FILING WITH THE BOARD OF THE ASSOCIATION A RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION NO LESS THAN NINETY DAYS PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL UNLESS A SHORTER WAITING PERIOD IS APPROVED BY THE BOARD OF AN ASSOCIATION. THE EFFECTIVE DATE OF WITHDRAWAL SHALL BE THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH IN WHICH THE WAITING PERIOD EXPIRES.

(b) A BOARD OF COUNTY COMMISSIONERS' WITHDRAWAL RESOLUTION SHALL BE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND SHALL STATE ITS INTENT TO WITHDRAW CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM PARTICIPATION IN A DEFINED CONTRIBUTION PLAN OFFERED BY THE ASSOCIATION.

(c) ANY WITHDRAWAL PURSUANT TO THIS SUBSECTION (3) SHALL BE APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF ALL CURRENT EMPLOYEES WHO ARE PEACE OFFICERS PROPOSED TO BE WITHDRAWN FROM A DEFINED CONTRIBUTION PLAN.

(d) THE BOARD OF THE ASSOCIATION SHALL DISCLOSE ALL RAMIFICATIONS AND PROCEDURES FOR OBTAINING THE MEMBER APPROVAL PROVIDED FOR IN SUBSECTION (3)(c) OF THIS SECTION.

(e) BEFORE THE ELECTION TO DETERMINE WHETHER A BOARD OF COUNTY COMMISSIONERS WILL WITHDRAW CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM PARTICIPATION IN A DEFINED CONTRIBUTION PLAN OFFERED BY AN ASSOCIATION, THE BOARD OF THE ASSOCIATION AND THE BOARD OF COUNTY COMMISSIONERS OR ITS DESIGNEE SHALL BE ALLOWED MULTIPLE OPPORTUNITIES TO PRESENT INFORMATION TO CURRENT EMPLOYEES WHO ARE PEACE OFFICERS PROPOSED TO BE WITHDRAWN FROM A DEFINED CONTRIBUTION PLAN OFFERED BY THE ASSOCIATION REGARDING THE ADVANTAGES OR DISADVANTAGES OF SUCH WITHDRAWAL.

(f) ALL WITHDRAWALS FROM THE ASSOCIATION PURSUANT TO THIS SUBSECTION (3) SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS SECTION, AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL WITHDRAWALS MEETING SUCH REQUIREMENTS SHALL BE APPROVED BY THE BOARD OF THE ASSOCIATION. WITHDRAWAL REQUESTS THAT DO NOT MEET THE REQUIREMENTS OF THIS SECTION SHALL NOT BE APPROVED BY THE BOARD OF THE ASSOCIATION.

(g) IF A BOARD OF COUNTY COMMISSIONERS FILES A RESOLUTION TO WITHDRAW CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM A DEFINED CONTRIBUTION

PLAN OFFERED BY AN ASSOCIATION FORMED PURSUANT TO THIS ARTICLE 54, AND THE WITHDRAWAL IS APPROVED PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION, ANY CURRENT EMPLOYEE WHO IS A PEACE OFFICER MAY ELECT TO REMAIN AN ACTIVE MEMBER OF SUCH DEFINED CONTRIBUTION PLAN IF THE WITHDRAWAL BECOMES EFFECTIVE. A CURRENT EMPLOYEE WHO IS A PEACE OFFICER SHALL NOTIFY, IN WRITING, THE BOARD OF THE ASSOCIATION AND THE BOARD OF COUNTY COMMISSIONERS WHETHER HE OR SHE WILL REMAIN IN THE DEFINED CONTRIBUTION PLAN OR BECOME PART OF THE DEFINED BENEFIT PLAN ADMINISTERED BY THE FIRE AND POLICE PENSION ASSOCIATION. A CURRENT EMPLOYEE WHO IS A PEACE OFFICER SHALL PROVIDE SUCH WRITTEN NOTICE PRIOR TO THE EFFECTIVE DATE OF THE RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION TO BEGIN PARTICIPATION IN A RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION. IF A CURRENT EMPLOYEE WHO IS A PEACE OFFICER DOES NOT PROVIDE SUCH WRITTEN NOTICE, THE CURRENT EMPLOYEE WILL REMAIN IN THE DEFINED CONTRIBUTION PLAN. A PEACE OFFICER WHO IS HIRED ON OR AFTER THE EFFECTIVE DATE OF THE RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION SHALL BE ENROLLED IN THE RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION.

(h) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO PROHIBIT A BOARD OF COUNTY COMMISSIONERS FROM USING SUBSECTION (2) OF THIS SECTION TO INITIATE THE WITHDRAWAL OF CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM PARTICIPATING IN AND CONTRIBUTING TO AN ASSOCIATION FORMED PURSUANT TO THIS ARTICLE 54.

SECTION 3. In Colorado Revised Statutes, 31-31-704.5, **amend** (4) as follows:

31-31-704.5. Entry into the social security supplemental plan. (4) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining member approval pursuant to subsection (3) of this section. The board shall also promulgate rules relating to standards for granting an employer's application for participation in the social security supplemental plan and for the submission of information to the board by the employer. The rules shall contain a provision specifying that an employer that opts to participate in the plan shall not be permitted to opt out of the plan at any later date. THE BOARD MAY ADOPT A RULE ALLOWING AN ELIGIBLE INDIVIDUAL ACTIVE EMPLOYEE OF AN AFFILIATING DEPARTMENT TO ELECT TO REMAIN IN A PREDECESSOR PLAN AND NOT BE COVERED UNDER THE SOCIAL SECURITY SUPPLEMENTAL PLAN.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 6, 2019